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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re L.C. et al., Persons Coming Under the
Juvenile Court Law.

SAN DIEGO COUNTY HEALTH AND
HUMAN SERVICES AGENCY,

Plaintiff and Respondent,

v.

LORENZO C.,

Defendant and Appellant.

D061417

(Super. Ct. No. SJ11297)

APPEAL from a judgment of the Superior Court of San Diego County, Laura J. Birkmeyer, Judge. Affirmed.

Lorenzo C. (Lorenzo) appeals the judgment terminating his parental rights to his son, L.C., and his daughter, D.C. (together, the children). Lorenzo contends there is not substantial evidence that the children's relative caregivers (the caregivers) were eligible to adopt and understood the rights and obligations of adoption. We affirm.

BACKGROUND

In January 2011, the San Diego County Health and Human Services Agency (the Agency) filed a dependency petition for one-year-old L.C. based on drug abuse by his mother, C.C., and Lorenzo, a registered narcotics offender (together, the parents); a history of child neglect; and the presence of drug paraphernalia and marijuana in the home, within L.C.'s reach. In February, the Agency filed an amended petition adding an allegation that the parents had caused the death of another child through abuse and neglect. In April, when D.C. was born, the Agency filed a petition for her with the same allegations as L.C.'s amended petition.¹

L.C. was detained at Polinsky Children's Center, then in a foster home. In March 2011, he was moved to the home of the caregivers, where D.C. joined him upon her discharge from the hospital. In May, the court entered true findings on L.C.'s amended petition and D.C.'s petition; ordered the children placed with relatives; and set a Welfare and Institutions Code section 366.26² hearing. At the section 366.26 hearing in February 2012, the court found the children adoptable and terminated parental rights.

¹ D.C.'s petition also contained an allegation that the parents were incarcerated and unable to arrange for her care, but that allegation was dismissed at the jurisdictional hearing.

² All further statutory references are to the Welfare and Institutions Code.

DISCUSSION

At the time of the section 366.26 hearing, L.C. was two years old and D.C. was not yet one year old. L.C. had lived with the caregivers for almost 11 months and D.C. had lived with them virtually all her life.

The Agency's adoption assessment report and an addendum stated the children were generally and specifically adoptable³ and recommended permanent plans of adoption. The caregivers wished to adopt the children. One of the caregivers was employed outside the home and the other was a full-time homemaker. They met the children's needs, provided love and support, and ensured the children received all of the services they needed. The caregivers were committed "to doing whatever is necessary for the betterment of the minors." The caregivers had "given consideration to the plan of adoption and what it entails" and were committed to that plan. The children were attached to the caregivers; turned to them for security, comfort and a sense of belonging; and viewed them as parents. The adoptive homestudy process had begun and the caregivers had completed the criminal history clearance and the child welfare history clearance. The caregivers had "been advised of the Adoption Assistance Program" and understood "the full responsibilities expected of them with a plan of adoption" and the attendant "legal and financial rights and responsibilities."

³ In addition to the caregivers, there were 65 approved, local families willing to adopt a child with L.C.'s characteristics, and 77 such families willing to adopt a child with D.C.'s characteristics. Considering the children as a sibling set with their older sister, there were 28 available families out of the county.

At the section 366.26 hearing, a document trial, the court received the assessment and the addendum into evidence without objection. Lorenzo asked the court to apply the beneficial relationship exception (§ 366.26, subd. (c)(1)(B)(i)) and not terminate parental rights. He presented no affirmative evidence; made no challenge to the adequacy of the Agency's reports; declined to cross-examine the social worker who wrote the reports; and made no mention of the caregivers' eligibility to adopt or understanding of the concomitant rights and obligations. He has therefore forfeited the right to raise his contention on appeal. (*In re Crystal J.* (1993) 12 Cal.App.4th 407, 411-412.) Even on the merits, however, Lorenzo cannot prevail.

"A relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption." (§ 366.21, subd. (i)(2)(B).) The Agency's report is to include "[a] preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent . . . , particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption" (§ 366.21, subd. (i)(1)(D).) The assessment and addendum here, summarized above, contained the information required by section 366.21, subdivision (i)(1)(D), and substantially complied with the requirements of section 366.21, subdivision (i)(2)(B). (*In re John F.* (1994) 27 Cal.App.4th 1365, 1378.)

Moreover, there is no basis for Lorenzo's argument that the court lacked sufficient information to select a permanent plan. Adoption is the preferred plan, and if a child is adoptable, the court must terminate parental rights at the section 366.26 hearing unless the parent proves the existence of a statutory exception. (§ 366.26, subd. (c)(1); *In re Helen W.* (2007) 150 Cal.App.4th 71, 80-81.) Lorenzo does not contest the finding the children were adoptable or assert that an exception to termination applied.

DISPOSITION

The judgment is affirmed.

HUFFMAN, Acting P. J.

WE CONCUR:

HALLER, J.

O'ROURKE, J.